

REMARKS

Reconsideration of the rejections set forth in the Office Action dated June 25, 2003, is respectfully requested. Claims 96, 98, 103-107, and 111 have been amended. Claim 112 has been canceled. Claims 113-116 have been newly added. Claims 96, 98, 103-107, 111, and 113-116 remain pending. Support for the amendments and new claims can be found in the specification at, e.g., page 10, line 13 – page 11, line 9; page 12, lines 1-14; page 12, line 28 – page 13, line 17; page 14, line 16 –page 16, line 4; page 19, lines 9-22; page 20, lines 20-29; page 33, lines 13-29; page 34, lines 11-29; and page 35, lines 11-25; page 39, lines 19-28; page 55, lines 12-29. Therefore, these amendments have been made without the addition of new matter.

IDS Statement

Applicants note that the PTO-Form 1449 submitted November 2, 2001, was not returned to Applicant with initials in the left-most column. Applicant respectfully requests that the Examiner return a copy of PTO-Form 1449 with the next Office Action.

Specification

The specification was objected to as allegedly failing to provide proper antecedent basis for the claimed subject matter. In particular, the examiner alleges that there is no proper antecedent basis for the term “composition of matter.” Without conceding the propriety of the objection, Applicants have amended claim 96, and the claims that depend therefrom, to recite a

“*complex comprising*” Support for this amendment can be found in the specification at, e.g., page 20, lines 20-29; page 33, lines 13-29; page 34, lines 11-29; and page 35, lines 11-25.

35 U.S.C. § 112

Claims 96, 98-99, 103-107, and 111-112 were rejected under 35 U.S.C. § 112, first paragraph, for allegedly failing to provide enablement. Without conceding the propriety of the rejection, Applicants have amended claim 96 to specify a “*pairing component comprising a p-RNA*.”

Claims 96, 98-99, 103-107, and 111-112 were rejected under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter that the applicants regard as the invention. In particular, claim 96 was rejected as allegedly indefinite for being unclear as to whether “binding” in the phrase “set of binding immunoreaction component ...” refers to the complexes formed or the ability to bind one or more analyte. Claim 96 has been amended to delete this phrase. In addition, the compounds recited in the parentheses have been deleted and the elements of the complex have been positively recited in the body of claim 96. The words “one or more” have also been deleted from the preamble.

Claim 98 was also rejected as being allegedly indefinite as to the term “moiety.” Applicants have deleted the term “moiety.” Claim 98 currently recites “*wherein the immunoreaction binding component is selected from the group consisting of ...*”

Claim 107 was rejected for allegedly lacking proper antecedent basis for the term “the complementary.” Applicants have amended claim 96 to introduce “*a complementary pairing component.*”

Claim 111 was rejected for allegedly failing to further limit the claim with the language “at least” one labeled analyte standard. Applicant has amended claim 111 “*a labeled analyte which is bound by the immunoreaction binding component.*” Applicant respectfully asserts that claim 111 is adding an additional component to the complex, and therefore, is further limiting claim 96.

Claim 112 was canceled. Therefore, the rejection of claim 12 is now moot.

35 U.S.C. § 102

Claims 96, 98, 103-106, and 111-112 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Cubiccioti (U.S. Patent No. 6,287,765). Applicants have amended claim 96 to specify a “*pairing component comprising a p-RNA,*” thereby incorporating dependent claim 99 into independent claim 96. Applicant gratefully acknowledges that the examiner had previously indicated that claims 99 and 107 would be allowable if rewritten in independent form. Cubiccioti does not teach or suggest all of the limitations of claim 96 as amended. Each of claims 98, 103-106, and 111-112 is dependent on claim 96. Therefore, these dependent claims are patentably distinct from the prior art for the same reasons applicable to claim 96. Applicants respectfully request withdrawal of the rejection and reconsideration of the claims as amended.

Patent US 501P1
Attorney Docket: 612,406-013
(Former L&L Ref: 260/095)

For all the foregoing reasons, Applicants assert the claims are in condition for allowance.

Favorable action on the merits of the claims is therefore earnestly solicited. If any issues remain, please contact Applicants' undersigned representative at (949) 737-2900. The Commissioner is hereby authorized to charge any additional fees that may be required to Deposit Account No. 50-0639.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: October 23, 2003

By: Diane K. Wong
Diane K. Wong

JCK/DKW

Reg. No. 54,550

34263 O'Melveny & Myers LLP
PATENT TRADEMARK OFFICE 114 Pacifica, Suite 100
Irvine, CA 92618-3315
(949) 737-2900